

HOUSE BILL 1631

By Ragan

AN ACT to amend Chapter 291 of the Private Acts of 1947; and any other acts amendatory thereto, relative to the regulation of pyrotechnics in Anderson County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 291 of the Private Acts of 1947, and any other acts amendatory thereto, is amended by deleting the chapter and substituting instead the following:

**SECTION 1. GENERAL APPLICABILITY AND SCOPE**

That from and after the effective date of this Act, it shall be unlawful for any person, firm, or corporation to possess, store, use, manufacture, display, or sell pyrotechnics, as hereinafter defined, in Anderson County, Tennessee, subject to the following exceptions, regulations, permitting requirements, and prohibitions contained herein. This Act permits and allows the use, display, and sales of fireworks, commonly identified as D.O.T. Class C Consumer Grade fireworks during seasonable sales periods and under reasonable regulations designed to protect the health, safety, and welfare of the general public. The safe possession and storage of D.O.T. Class C Consumer Grade fireworks shall not be infringed upon and shall be lawful at any time within the boundaries of Anderson County. The manufacturing and transportation of pyrotechnics of any form or type shall be governed by federal, state, and local law provided that all required local permits, including zoning classifications are obtained.

**SECTION 2. LIMITATIONS ON EFFECT**

Nothing contained herein is intended to limit, supersede, or preempt the provisions of Tenn. Code Ann. Section 68-104-101 et seq., or any state or federal law regarding the possession, storage, use, manufacturing, display, or sales of pyrotechnics. Nothing within the terms and provisions embodied in this Act shall be construed or

interpreted to relieve any person from the provisions of licensing, permitting, or taxation required under Tennessee law.

### **SECTION 3. DEFINITIONS**

The following definitions of various operative words and phrases contained herein shall be interpreted, and held to mean, within the context of this Act, as follows:

**(A) *Pyrotechnics*:** Any device or composition containing combustible or explosive substances prepared for the purpose of visual or audible effect by combustion, explosion, deflagration, or detonation by any means of ignition, to include, but not be limited to:

**(1) *Permissible Fireworks*:** Any device or composition held to mean, or be identified as, "D.O.T. Class C Common Fireworks" or commonly referred to a Consumer Grade, including all articles of fireworks as are now or hereafter classified as D.O.T. Class C Common fireworks in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

**(2) *Restricted Special Fireworks*:** Any device or composition held to mean by the terms of this Act, or be identified as:

**(a)** All articles of fireworks that are classified as D.O.T. Class B explosives in the regulations of the United States Department of Transportation; and

**(b)** All articles of fireworks commonly referred to as Display Grade other than those articles Classified as D.O.T. Class C (Consumer Grade) Fireworks; and

**(c)** Any undefined, unclassified, or homemade article or substance of pyrotechnics; including, but not limited to, unmanned free-floating devices such as sky lanterns or articles capable of

producing an open flame, sparks, gas, and smoke intended for audible, or visual effect.

**(B) *Display:***

**(1) *Display for Use:*** The knowing and intentional show, exhibition, or use of pyrotechnics causing either visual or audible effect;

**(2) *Display for Sale:*** The intentional display for sale of any item identified as Permissible Fireworks.

**(C) *Manufacture:*** Any person engaged in the process of making, manufacturing, or construction of pyrotechnics and/or fireworks of any kind within this state.

**(D) *Permit:*** The written authority of the State Fire Marshal issued under the authority of Tennessee law, including additional state and local permits, licenses, or taxes authorized by Tennessee law or local authority.

**(E) *Person:*** Any individual, firm, partnership, company, business entity, or corporation.

**(F) *Possess:*** Any person that knowingly has actual physical control of any substance or item defined herein as Pyrotechnics, Fireworks, or Restricted Special Fireworks.

**(G) *Sale:*** An exchange of articles of fireworks for money or trade including, but not limited to: barter, exchange, gift, or offer thereof, and each such individual transaction made by one or more persons, whether as principal, proprietor, salesperson, employee, agent, association, or copartnership.

**(H) *Seasonal Retailer:*** Any person engaged in the business of making retail sales of D.O.T. Class C Consumer Grade Fireworks within this state from June 20 through July 5 and December 10 through January 2 of each year; provided such person has obtained the proper permit(s).

**(I) Seasonal Sales Period:** Any properly permitted person may engage in the sale of D.O.T. Class C Consumer Fireworks from June 20 through July 5 and December 10 through January 2 of each year.

**(J) Use:** To intentionally and knowingly ignite or discharge, causing any item or substance to produce a visual or audible effect by combustion, explosion, deflagration, or detonation.

**(K) Store:** To keep or retain any item defined herein in a safe and secure container or place.

#### **SECTION 4. LAWFUL CONDUCT; PERMISSIBLE USES**

**(A) Possession:** It shall be lawful for any person to possess D.O.T. Class C Consumer Grade Fireworks at any time within the geographic boundaries of Anderson County.

**(B) Store:** It shall be lawful for any person to safely store D.O.T. Class C Consumer Grade Fireworks at any time during the calendar year.

**(C) Use and Display:** It shall be lawful for any person to use and display D.O.T. Class C Consumer Grade Fireworks during the Seasonal Sales Period subject to state law and the Anderson County Noise Resolution.

**(D) Sale:** It shall be lawful for any person to sell D.O.T. Class C Consumer Grade Fireworks during the seasonable sales period, provided required state and local permits are obtained.

#### **SECTION 5. UNLAWFUL CONDUCT; IMPERMISSIBLE USES**

**(A) Manufacture:** No person may manufacture pyrotechnics within the boundaries of Anderson County without first obtaining the proper state and local permits, including zoning approval.

**(B) Use and Display:** No person shall use or display D.O.T Class C Consumer Grade Fireworks except during the seasonal sales period. No person shall use or display any item or substance defined as Restricted Special

Fireworks without first obtaining approval of the State Fire Marshal and any other permit required under federal, state, or local law.

**(C) Sale:** No person shall sell D.O.T Class C Consumer Grade Fireworks except during the seasonal sales period, provided proper state and local permits are obtained. Sales of Restricted Special Fireworks shall not be sold by seasonal retailers.

**(D) Possession:** No person shall possess any item or substance defined as Restricted Special Fireworks without first obtaining the approval of the State Fire Marshal and any other permit required under federal, state, or local law.

**(E) Storage:** No person shall store any item or substance defined as Restricted Special Fireworks without first obtaining the approval of the State Fire Marshal and any other permit required under federal, local, or state law.

**SECTION 6.** That any person guilty of violating any provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifty (\$50.00) Dollars and not more than Four Hundred (\$400.00) Dollars, or by confinement in the County Jail for not less than thirty (30) days and not more than eleven (11) months and twenty-nine (29) days, or by both such fine and imprisonment in the discretion of the Court.

**SECTION 7.** That nothing on this Act shall be construed as applying to governmental entities conducting or sponsoring public displays of pyrotechnics by contract or arrangement with any State Fair, patriotic assembly, legal holiday, or similar public functions, who acquire all articles used in such pyrotechnic displays from points outside Anderson County, and further keep such pyrotechnic articles in their possession at all times during the public gathering, and transport the same out of this County upon the conclusion of the arrangement or contract under which such pyrotechnics are displayed for public entertainment.

**SECTION 8.** Notwithstanding any provision of this Act to the contrary, it shall be lawful for Seasonal Retailers including companies, firms, not-for-profit entities, including volunteer fire departments, and corporations, recognized by the Secretary of State and properly permitted by the State Fire Marshal, to offer for sale, use, display, store, and otherwise possess D.O.T. Class C. Consumer Grade Fireworks during and throughout June 20 to July 5 and December 10 to January 2 of each year subject to reasonable regulations, taxes, and fees lawfully adopted by the Anderson County Legislative Body. Persons or individual purchasers from properly permitted seasonal Retailers may lawfully use and display D.O.T. Class C. Consumer Grade Fireworks during and throughout June 20 to July 5 and December 10 to January 2 of each year. Furthermore, persons may possess and safely store all articles and substances classified as D.O.T. Class C Consumer Grade Fireworks at all times.

**SECTION 9.** The provisions of this Act are hereby declared to be severable, and if any of its sections, provisions, clauses, or parts be held unconstitutional or void, then the remainder of this Act shall continue in full force and effect, it being the legislative intent now hereby declared, that this Act would have been adopted even if such unconstitutional or void matter had not been included therein.

**SECTION 2.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Anderson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

**SECTION 3.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.